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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JEFFREY M. JONES and TIMOTHY KVANVIG[1]

Appeal 2017-004493
Application 13/598,734
Technology Center 3600

Before CAROLYN D. THOMAS, DAVID J. CUTITTA II, and PHILLIP A. BENNETT, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants seek our review under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of claims 1, 2, 6–8, and 26–33, all the pending claims in the present application. Claims 3–5 and 9–25 are canceled. *See* Claims Appendix. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We REVERSE.

The present invention relates generally to monitoring spending for pharmaceutical and life science concerns. *See* Abstract.

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[1] The Appellants name Oracle International Corporation as the real party in interest (App. Br. 2).

Method Claim 29 is illustrative:

29. A computer-implemented method performed by a computer system including at least a processor and a memory for executing instructions, the method comprising:

accessing, via an internet connection, one or more data sources maintained by a company, and retrieve transaction data that includes data of payments made by the company, wherein the transaction data is described by terms;

parsing, by at least the processor, the transaction data to identify terms that reference a health care practitioner and to identify one or more monetary amounts paid to the health care practitioner;

classifying, by at least the processor, the one or more monetary amounts paid to the health care practitioner from the transaction data by identifying a transaction type from the terms in the transaction data, and retrieving a transaction type identifier that is mapped to the term, where the transaction type identifier classifies the term as one of several different types of monetary payments including gift payments, wherein the transaction type identifier is determined by comparing the term of the monetary amount to a set of stored predefined transaction types;

identifying, by at least the processor accessing a practitioner data source, a practitioner identifier that uniquely identifies the health care practitioner;

creating and storing, by at least the processor, a spend record in a spend record database, where the spend record includes data corresponding to: the transaction data, the practitioner identifier, and the transaction type identifier, where creating a spend record that includes the practitioner identifier and the transaction type identifier in the spend record facilitates web-based querying of spend records stored in the spend record database by a provider of the transaction data based, at least in part, on the practitioner identifier of transaction type identifier;

accessing, by at least the processor, a compliance rule data source that includes one or more compliance rules that specify limits on at least gift payments made to the health care practitioner;

querying, by at least the processor, the compliance rule data source to identify a compliance rule associated with the transaction type that specifies a limit on monetary amounts that include gift payments paid to the health care practitioner for transactions of the transaction type;

querying, by at least the processor, the spend record database to aggregate the monetary amounts in the spend records for each of the practitioner identifiers based on the transaction type identifier to generate a resulting aggregated monetary amount made to the health care practitioner for gift payments;

comparing, by at least the processor, the resulting aggregated monetary amount for each of the practitioner identifiers with the limit on the monetary amounts that include gift payments; and

compiling, by at least the processor, a compliance report that reports a result of the comparison to identify the health care practitioners that have the aggregated monetary amount that is more than the limit on the monetary amounts that include gift payments, and generate a flag to indicate a violation for the associated spend record.

Appellants appeal the following rejection:[2]

Claims 1, 2, 6–8, and 26–33 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter (Final Act. 2–4); and

R2. Claims 1, 2, 6–8, and 26–33 are rejected under 35 U.S.C. § 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement.

[2] The Examiner withdrew the rejection of claims 1, 2, 6–8, and 26–33 under 35 U.S.C. § 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement (Ans. 2).

We review the appealed rejections for error based upon the issues identified by Appellants, and in light of the arguments and evidence produced thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential).

ANALYSIS

Rejection under § 101

Issue: Did the Examiner err in finding that the claims are directed to non-statutory subject matter?

Alice Corp. Pty. Ltd. v. CLS Bank International, 134 S. Ct. 2347 (2014) identifies a two-step framework for determining whether claimed subject matter is judicially-excepted from patent eligibility under § 101. According to *Alice* step one, "[w]e must first determine whether the claims at issue are directed to a patent-ineligible concept," such as an abstract idea. *Alice*, 134 S. Ct. at 2355.

In this regard, with respect to independent method claim 29, and similarly, non-transitory computer-readable medium claim 1 and system claim 26, the Examiner finds that the claims are directed to an abstract idea of *using categories, i.e., transaction term, transaction type, practitioner identifier, to organize, store, and transmit information* (Final Act. 2). The Examiner adds that the claims use "the well-known concept of categorical data storage" and the "Examiner is using the logic as shown within *Ciberfone*" (*id.* at 3).

Appellants challenge the Examiner findings by asserting that claim 1 "improves the existing technological process by integrating a number of separate computer system components, and automatically

generating violation flags for specific data records" (App. Br. 13) and "claim 1 does not describe an economic practice or organizing activity [because] [i]t is a computer implemented invention . . . all concepts inextricably tied to computer technology" (*id.* at 14–15). Appellants emphasize that "[a] computer and processor must perform [the] actions as claimed" (App. Br. 16).

In response, the Examiner finds, and we agree, that Appellants' Specification indicates that "[t]he laws focus on banning or limiting gifts . . . offered to healthcare providers . . . and adoption of codes of conduct" as such "[w]hat more fundamental idea of economic activity is to regulate [sic] commercial transactions?" (Ans. 3 (citing Spec. ¶ 9)). In other words, the Examiner finds support in Appellants' Specification for indicating that the claimed invention is directed towards a fundamental economic activity, i.e., regulating activities with practitioners. The Examiner further finds that "automating the abstract idea is just an automated abstract idea" (*id.*). We agree with the Examiner.

Courts have similarly determined that various methods of organizing human activity fall "squarely within the realm of 'abstract ideas.'" *Alice*, 134 S. Ct. at 2357 (discussing methods for risk hedging and intermediated settlement as non-limiting examples of organizing human activity). Among others, recent cases from the Federal Circuit also have "applied the 'abstract idea' exception to encompass inventions pertaining to methods of organizing human activity." *In re TLI Commc'ns LLC Patent Litig.*, 823 F.3d 607, 613 (Fed. Cir. 2016) (finding the claimed method of classifying and storing images in an

organized manner was a well-established basic concept analogous to methods of organizing human activity); *see Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1367 (Fed. Cir. 2015) (finding the claim at issue was directed to the abstract idea of budgeting, which was "not meaningfully different from the ideas found to be abstract in other cases before the Supreme Court and our court involving methods of organizing human activity"). *See also, e.g., Content Extraction & Transmission LLC v. Wells Fargo Bank, Nat'l Ass'n*, 776 F.3d 1343, 1347 (Fed. Cir. 2014) (finding claims directed to collecting data, recognizing certain data within the collected data set, and storing the recognized data is drawn to an abstract idea and noting that "humans have always performed these functions").

For at least the reasons noted *supra*, we find that the Examiner has sufficiently shown that the claims are directed to an abstract idea.

We now turn to the second step of the *Alice* framework: "a search for an 'inventive concept' –*i.e.*, an element or combination of elements that is 'sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.'" *Alice*, 134 S. Ct. at 2355 (citing *Mayo Collaborative Servs.*, 132 S. Ct. at 1294).

Appellants contend that "[g]eneric computers do not generate the type of flag violations as recited in the claim" (App. Br. 17), "the ordered combination is not a conventional or generic arrangement of known elements" (*id.* at 18), and "the computer could not previously

identify such violations and generate flags for the violations" (*id.* at 19).

Specifically, Appellants' Specification states that "[t]he system 300 also includes a data logic 320 configured to rationalize the transaction data received by the capture logic 310 and transform the transaction data into a format suitable for compliance analysis" (¶ 21) and that "the record verification logic may apply one or more transaction rules to the stored spend records and flag spend records that violate a transaction rule" (¶ 23).

For example, claim 29 recites, *inter alia*, "creating and storing a spend record . . . [that] facilitates web-based querying . . . and generate a flag to indicate a violation for the associated spend record" (*see* claim 29).

The Examiner highlights that Appellants' disclosure describes the invention being implemented by "a computer 500 that includes a processor 502, a memory 504, and input/outputs 510 operably connected by a bus 508" (Ans. 4 (citing Spec. ¶ 30)), but the Examiner fails to persuasively explain how Appellants' *creation of the spend record* to *generate a flag* is conventional and well-understood.

Although we agree with the Examiner that the claimed invention uses "generic computer, network, and Internet components, none of which is inventive by itself," the "inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces." *Bascom*, 827 F.3d 1350. According to Appellants, the claimed invention "improves the existing technology

process by integrating a number of separate computer system components and automatically generating violation flags" (App. Br. 18). The Examiner has not set forth with sufficient specificity or provided any finding (*see* Ans. 5–7; *see also* Final Act. 10) that the specifically claimed manner of creating and storing the spend record and using the same to generate a flag to indicate a violation is well-understood, routine, or conventional. *Berkheimer v. HP Inc.*, No. 2017-1437, slip op. at 14 (Fed. Cir. Feb. 8, 2018) ("Whether something is well-understood, routine, and conventional to a skilled artisan at the time of the patent is a factual determination."). As such, on the record before us, the Examiner has not shown that the aforementioned features are well-understood or routine.

DECISION

We reverse the Examiner's § 101 rejection.

REVERSED